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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
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8 DAVID PHILLIP RUFFA,

9 *Petitioner,*

10 vs.

11 E.K. MCDANIELS, *et al.,*

12 *Respondents.*
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2:09-cv-02258-KJD-PAL

ORDER

14 This habeas action comes before the Court on a filing that has been docketed as a
15 district court motion (#35) to appoint counsel.

16 The motion appears to be captioned for the Court of Appeals, which also was copied
17 with the motion. In all events, it would be more appropriate for the appellate court to address
18 any issues relating to counsel on appeal. This Court accordingly will deny the motion for
19 counsel strictly as a motion for district court consideration and without prejudice to petitioner's
20 pending presentation of the motion to the Court of Appeals.

21 The Court notes that the notice of appeal appears to be untimely.

22 IT THEREFORE IS ORDERED that petitioner's motion (#35) for appointment of
23 counsel on appeal is DENIED strictly as a motion for district court consideration and without
24 prejudice to petitioner's pending presentation of the motion to the Court of Appeals.

25 DATED: January 9, 2013
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KENT J. DAWSON
United States District Judge